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REVIEW OF THE IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING OF INTERNATIONAL SECURITY

HUMAN RIGHTS QUESTIONS

UNITED NATIONS DECADE OF INTERNATIONAL LAW

REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

Letter dated 23 December 1991 from the Permanent Representative of Ukraine to the United Nations addressed to the Secretary-General

I have the honour to transmit the text of the reservations by the Verkhovna Rada of Ukraine to the Agreement establishing the Commonwealth of Independent States signed on behalf of Ukraine at Minsk on 8 December 1991, together with the text of the relevant statement by the Verkhovna Rada of Ukraine dated 20 December 1991 (see annexes).

I should be grateful if you would have the text of this letter and its annexes circulated as an official document of the General Assembly under the items entitled "Review of the implementation of the Declaration on the Strengthening of International Security", "Human rights questions", "United Nations Decade of International Law" and "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

(Signed) Gennadi I. OUDOVENKO
Ambassador
Permanent Representative of Ukraine
to the United Nations

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* Reissued for technical reasons.

[Original: Russian]

ANNEX I

Reservations by the Verkhovna Rada of Ukraine to the Agreement establishing the Commonwealth of Independent States signed on behalf of Ukraine at Minsk on 8 December 1991

A.

1. Pursuant to article 3, each of the High Contracting Parties, desirous of facilitating the expression, preservation and development of the distinctive ethnic, cultural, linguistic and religious characteristics of the national minorities resident in its territory and of the unique ethno-cultural regions that have come into being, will extend protection to them.

2. Pursuant to article 5 of the Agreement, the High Contracting Parties acknowledge and respect each other's territorial integrity and the inviolability of the existing State borders between them.

They guarantee on a mutual basis openness of the State borders existing between them for unimpeded contact between their citizens and the transmission of information within the Commonwealth, and to this end will in the near future draw up the appropriate basis in law.

3. Pursuant to article 6, the States members of the Commonwealth, re-forming the units of the armed forces of the former Union of Soviet Socialist Republics stationed in their territories and creating their own armed forces on the basis thereof, will cooperate in safeguarding international peace and security and implementing effective measures for the reduction of armaments and military expenditures. They are striving to eliminate all nuclear weapons and achieve universal and complete disarmament under strict international control.

The parties will respect the efforts of the participants in the Agreement who wish to attain the status of a nuclear-free or neutral State.

The States members of the Commonwealth will maintain, and retain under joint command, a common military and strategic space and unified control over nuclear weapons, the procedure for implementing which will be regulated by special agreement. This provision shall cease to apply with respect to Parties on whose territory nuclear weapons are destroyed in accordance with an international agreement and under international control.

They also jointly guarantee the necessary conditions for the deployment and functioning and the material and social security of the strategic armed forces.

The Parties undertake to pursue an agreed policy on issues of social welfare and provision of pensions for military personnel and their families.

4. Pursuant to article 7 of the Agreement, the High Contracting Parties recognize that the spheres of their cooperation, conducted on an equitable basis through common coordinating institutions of the Commonwealth, include:

- Consultation in the field of foreign policy;

- Development of a common economic space, participation in Europe-wide and Eurasian markets, and customs policy;

- Development of their own transport and communications systems;

- Protection of the environment and participation in establishing a comprehensive international system of environmental security;

- Migration policy;

- Combating organized crime.

The coordinating institutions will be established on the basis of parity, and their recommendations will be adopted by consensus.

5. Pursuant to article 9, disputes regarding the interpretation and application of the provisions of the present Agreement shall be resolved by means of negotiations on the basis of international law.

6. Pursuant to article 10, each of the High Contracting Parties reserves the right to suspend or terminate the application of this Agreement or individual articles thereof by giving the parties to the Agreement one year's notice.

The provisions of this Agreement may be supplemented or modified by mutual agreement among the High Contracting Parties.

7. Article 11 of the Agreement should be deleted as tautological.

8. Pursuant to article 12, the High Contracting Parties undertake to discharge, in accordance with their national legislation, the international obligations incumbent upon them under treaties entered into by the former Union of Soviet Socialist Republics.

9. This Agreement is subject to ratification and shall enter into force from the moment of exchange of the instruments of ratification. The exchange of the instruments of ratification shall take place at Minsk. The depositary of the Agreement shall be the Government of the Republic of Belarus.

10. In the first preambular paragraph, after the words "Union of Soviet Socialist Republics as a" insert the word "State".

11. In the third preambular paragraph, after the words "setting up" insert the word "independent".

12. In the fourth preambular paragraph, after the words "in internal affairs,", insert the words "of territorial integrity and inviolability of frontiers,".

I. PLUSHCH
Chairman of the Verkhovna Rada
of Ukraine

10 December 1991

B.

In view of the importance to the fate of Ukraine of the content of the Agreement signed at Minsk, it is proposed that one further addition should be made to the Reservations already adopted by the Verkhovna Rada of Ukraine.

1. Amend the title of the Agreement, deleting the word "establishing" and writing the word "commonwealth" with a small initial letter. The heading should read: "Agreement on the commonwealth of independent States".

2. For consistency with this, amend article 1 to read:

"The High Contracting Parties hereby take a decision on the commonwealth of independent States."

3. Article 6 should begin with the words "The High Contracting Parties" instead of "The States members of the Commonwealth".

4. The third paragraph of article 6 should begin with the words "The High Contracting Parties" instead of "The States members of the Commonwealth".

Adopted by the Verkhovna Rada of Ukraine
on 12 December 1991

[Original: English]

ANNEX II

Statement by the Verkhovna Rada of Ukraine adopted on 20 December 1991 on the occasion of conclusion by Ukraine of the Agreement on the Community of Independent States

The Agreement on the Community of Independent States, which was ratified on 10 December 1991 by the Verkhovna Rada of Ukraine with reservations to it, ensures the independence of Ukraine as a State. At the same time, there has been an ambiguous interpretation of the specific articles of the Agreement and its general direction by the official circles of the parties that signed it. It has dealt with the Agreement as designed to serve the basis for creating a new union State.

In accordance with the provisions of the Vienna Convention on the Law of Treaties, from the moment of ratification of the Agreement binding for Ukraine will be those provisions of the Agreement signed by the President to which no reservations were made, as well as the reservations to the Agreement that were endorsed by the Verkhovna Rada of Ukraine.

In summary, the Minsk Agreement ratified by the Verkhovna Rada with the reservations made for Ukraine means the following:

1. In accordance with the Act of Proclamation of Independence of Ukraine of 24 August 1991 and the will of the people of Ukraine exercised through the all-Ukrainian referendum, Ukraine is and will remain by its legal status an independent State, the subject of international law.

2. Ukraine denies the transformation of the Community of the Independent States into a State entity with its bodies of power and control.

3. Ukraine denies granting to the Community the status of the subject of international law.

4. The coordinating institutions within the framework of the Community cannot have obligatory power. Their decisions have the character of recommendations.

5. By independently exercising its foreign policy, Ukraine will enter consultations with other States of the Community.

6. The border between Ukraine, on one hand, and Russia and Belarus, on the other hand, is the state border of Ukraine, which is inviolable. Its demarcation line, defined by the Treaty between Ukraine and Russia of 1990, remains unalterable, regardless of whether Ukraine is a party to the agreement or not.

7. Ukraine shall create her own armed forces on the basis of the armed forces of the former Union of Soviet Socialist Republics, deployed on her territory.

8. Ukraine shall strive to obtain a non-nuclear status by elimination of all her nuclear arsenals under an effective international control and according to the Declaration on the State Sovereignty and shall join no military blocs.

9. The deployment of the strategic armed forces on Ukrainian territory is temporary. Their legal status and the term of their stationing on the territory of Ukraine have to be defined by a specific agreement to be concluded between States on the territory of which the nuclear weapons of the former Union of Soviet Socialist Republics are deployed.

10. Ukraine shall form her own open economic system by introducing her own currency, creating her own bank and customs systems, developing her own transport and communications systems, as well as participating in regional and interregional markets.

11. Ukraine shall solve disputes arising from interpretation and implementation of the norms of the Agreement through negotiations on the basis of international law.

12. Ukraine reserves her right not only to suspend but to terminate her participation in the Agreement or in its specific articles.

13. Ukraine guarantees fulfilment of international obligations that stem for her from the treaties of the former Union of Soviet Socialist Republics in accordance with her national legislation.

Everything stated in paragraphs 1 to 13 of this statement is the official interpretation of the Minsk Agreement and is obligatory for the President of Ukraine, Prime Minister of Ukraine and other structural chains of the executive power.

I. PLUSHCH
Chairman of the Verkhovna Rada
of Ukraine